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**HM Revenue
& Customs**

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Date

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**STATEMENT ON BEHALF OF HM REVENUE AND CUSTOMS TO THE
LEVESON INQUIRY INTO THE CULTURE, ETHICS AND PRACTICES OF THE
PRESS**

PURSUANT TO A REQUEST DATED 27TH SEPTEMBER 2011

STATEMENT OF DAVE HARTNETT TO LEVESON INQUIRY

1. I am Dave Hartnett, the Permanent Secretary for Tax in HM Revenue and Customs ("HMRC"). I make this statement further to the Notice issued by Lord Justice Leveson, Chairman of the Leveson Inquiry ("the Inquiry"), pursuant to section 21(2) of the Inquiries Act 2005 and dated 25th October 2011 ("the Notice").
2. The Notice requires that my statement should cover at least a number of specified issues, namely-

"(1) Who you are and a brief summary of your career history;

(2) Whether the HMRC, or its predecessor the Inland Revenue, is or has been targeted by persons seeking to "blag" confidential data from your organisation. For the purposes of this request please go back at least 10 years;

(3) If so, please give an indication of the scale of the problem, the types and sophistication of "blagging" attempts that are made, the types of data that are sought, who by, who for and any other particulars that will assist the Inquiry to assess the nature and scale of the problem. Inter alia, please deal in your response to this request with the statement at §4.10 of the Information Commissioner's 2006 report *What Price Privacy?* That: "...the Inland Revenue's human resources directorate admitted there was evidence to show that some employees had sold confidential information from tax returns to outside agencies, without identifying the agencies concerned.";

(4) What measures does your organisation presently take in order to prevent "blaggers" from obtaining confidential data?

(5) Have any of your staff (i.e. HMRC or Inland Revenue staff, whether casual or permanent) in the last 10 years been caught and/or disciplined for disclosing confidential data to third parties? If so please provide particulars. This request is particularly directed at third parties who directly, or indirectly, have sought to corrupt your staff in order to obtain confidential data for any manifestation of the media

The documents you should provide to the Inquiry Panel should relate to the following matters or issues:

(a) Any document concerning attempts (whether or not successful) to blag information from your organisation in the last 10 years.

(b) Any document setting out your organisation's present measures to prevent "blaggers" from obtaining unauthorised access to confidential data.

(c) Any document relevant to the uncovering of, investigation of, or disciplining of staff for unauthorised disclosure of confidential data to third parties."

3. Taking these questions in turn:-

(Q1) Who you are and a brief summary of your career history

4. In a career spanning more than 30 years I have been a tax investigator, technical specialist and tax policy maker. I am a Commissioner of HMRC and, by virtue of my position as the Permanent Secretary for Tax in HMRC, the Department's Head of Tax. I am also the Vice Chairman of the Organisation for Economic Cooperation and Development ("OECD") Forum on Tax Administration, and am a frequent speaker and writer on taxation issues.
5. In my capacity of Permanent Secretary I initiated HMRC's strategy of engagement with big business and led the development of the rules requiring the disclosure of schemes and arrangements around tax avoidance. I have overseen the project to modernise HMRC's powers and to introduce better safeguards for taxpayers, and I am one of the Commissioners who was responsible for setting up the Joint International Tax Shelter Information Centre to counter tax avoidance across the world. More recently I led the negotiations on behalf of HMRC with the Liechtenstein and Swiss authorities to recover tax on hidden income and gains, and, more broadly, have played a central role in building HMRC's relationships with other tax administrations across the world.
6. In my OECD role I led that organisation's Study of Tax Intermediaries, as well as four other studies, which have helped increase cooperation between business, their advisers and tax administrations.

(Q2) Whether the HMRC, or its predecessor the Inland Revenue, is or has been targeted by persons seeking to "blag" confidential data from your organisation. For the purposes of this request please go back at least 10 years;

7. As required, the information which I set out within the body of this statement is limited to "blagging" rather than other forms of unauthorised disclosure. However to cooperate with the spirit of the request at item (c) above, the documentary bundles I produce hereafter deal with the broader range of "unauthorised disclosure of confidential data to third parties."
8. I can confirm that HMRC has been the subject of attempts to obtain taxpayer information by bogus callers. The nature of these attempts is varied but there are indications that these calls are made predominantly by criminals attempting to obtain information for fraudulent purposes rather than by members of the media looking for news stories.
9. HMRC was created following a merger of the former Inland Revenue and HM Customs and Excise in April of 2005. Since 2003 Former Inland Revenue Contact Centre operations have had an informal local process in place, communicated to staff through guidance and management instructions for staff, to report bogus calls to Contact Centres Head Office; this was not a

mandatory set of protocols and so cases were invariably dealt with on an individual case by case basis. The former Customs & Excise operated a telephone advice line, which only handled general enquiries, not specific to individual businesses. The majority of former Customs & Excise customers were businesses as opposed to individuals and the opportunities for members of the media to attempt to obtain information via blagging was therefore numerically reduced. Any such attempts would have been handled via local procedures within the relevant line of business and we have not been able to identify specific instances or collate summary figures for any bogus callers.

(Q3) If so, please give an indication of the scale of the problem, the types and sophistication of “blagging” attempts that are made, the types of data that are sought, who by, who for and any other particulars that will assist the Inquiry to assess the nature and scale of the problem. Inter alia, please deal in your response to this request with the statement at §4.10 of the Information Commissioner’s 2006 report *What Price Privacy?* That: “...the Inland Revenue’s human resources directorate admitted there was evidence to show that some employees had sold confidential information from tax returns to outside agencies, without identifying the agencies concerned.”;

10. In 2010/11 HMRC’s Contact Centre network received over 121 million call attempts. Drawing on customer research carried out since 2006, our customers have expressed the wish to communicate and carry out transactions with us by telephone. In developing our telephony processes we are constantly mindful of the need to balance meeting the demands of the customer with protecting the confidentiality of their information. But as with any telephone service, all our guidance and processes are underpinned by the reality that telephone verification checks can never provide a 100% certainty that the caller is who they say they are.
11. In March 2007 HMRC Contact Centres launched a formal process to monitor, record and investigate bogus calls. This process is supported by guidance for staff, which is published on the Contact Centres specific guidance site (Customer Advisor Guide) of HMRC’s Intranet for Contact Centres advisors. Adherence to this Customer Advisor Guide forms an integral part of managing performance and quality checking. In all cases where a caller is suspected to be bogus staff are instructed (i) not to disclose, or confirm, any information about the true HMRC customer, in respect of whom we have an express statutory duty of confidentiality pursuant to S18 (1) of Commissioners for Revenue & Customs Act (CRCA) 2005¹ and (ii) to obtain as much information from the suspected bogus caller as possible to assist with a subsequent investigation.

¹ “Revenue and Customs officials may not disclose information which is held by the Revenue and Customs in connection with a function of the Revenue and Customs.”

12. HMRC has worked closely with the Information Commissioners Office (ICO) and has had a Memorandum of Understanding (MOU) in place since 2007 to refer the most serious cases to the ICO for them to investigate possible breaches of Data Protection laws. A copy of this MOU is attached at **Annex A**. Referrals to the ICO have been done on an ad-hoc basis and neither HMRC nor the ICO have maintained historical records of cases so referred. In the past five years it is estimated that the frequency of cases referred to the ICO would not amount to more than two or three per year. Notably, in 2005, bogus call reports and call recordings which HMRC provided to ICO led to the successful prosecution of a tracing agency called Pearmac Ltd and its two directors, Raymond Pearson and Alan McInerney. The pair appeared at Brent Magistrates Court where both were found guilty of contravening the Data Protection Act. The Company was fined £75,000 plus costs. Pearson was fined £5,750 plus costs, McInerney £500 plus costs and the Company was put out of business.
13. A total of 8,950 recorded suspected bogus calls have been reported by HMRC staff since the new formal process was launched in March 2007, this total is reached as follows:
- 1 April 2007 to 31 March 2008; 4,577
 - 1 April 2008 to 31 March 2009; 1,857
 - 1 April 2009 to 04 March 2010; 2,157
 - 5 March 2010 to 04 October 2010: ***Data currently unavailable due to IT problems**
 - 5 October 2010 to 31 March 2011: 359
14. This summary data is broken down to provide an analysis of bogus calls reported, their origins and the key types of information sought is in **Annex B**. Analysis and investigation of reports logged since March 2011 is currently still in progress due to the strategic prioritisation of other security related work, as outlined below, but this is anticipated to be completed by mid-November 2011.
15. “The figures for bogus calls combined with the number of investigation cases reported under our response to Q5 below suggest that our processes for dealing with potential bogus callers are effective, particularly when considered against the number of customers we deal with and the huge volume of transactions that are handled by telephone. We are not complacent, however, and continue to look to improve the range of safeguards we use to protect the information of our customers”
16. Against a wider background of attempts to obtain taxpayers’ information, using a range of IT and technical means, either directly from HMRC or by fooling customers into providing their own personal details, we conclude that the majority of bogus enquiries which HMRC receives are from unscrupulous private sector investigation and credit reference agencies seeking more personal details about individuals for the purpose of fraud and identity hijack.

17. It has not been possible to attribute the source of the comment “...*the Inland Revenue’s human resources directorate admitted there was evidence to show that some employees had sold confidential information from tax returns to outside agencies, without identifying the agencies concerned*” contained in the Information Commissioner’s report of 2006. However, the information I have provided in response to Q5 below evidences the fact that, where staff have been discovered making inappropriate disclosures of taxpayer’s information to third parties, they have been subject to investigation and appropriate action.

(Q4) What measures does your organisation presently take in order to prevent “blaggers” from obtaining confidential data?

18. HMRC operates caller verification processes, following industry best practices, which seek to authenticate callers based on asking a series of questions personal to and only known by the individual. The caller verification processes are operated across all of its lines of business to provide a deterrent in terms of mitigating the risks of HMRC customer information being disclosed to bogus callers. The number and type of questions asked is tailored according to the individual line of business, but the basic elements (date of birth, address etc) are consistent across all areas. Information is never disclosed unless a caller is able to successfully pass all appropriate security checks; the result of this is that the majority of bogus calls reported are attempts rather than instances of actual unauthorised disclosure of HMRC customer information.
19. Since November 2007, and the publication of the Kieran Poynter Review in June 2008 into the Child Benefit data loss, HMRC has targeted increased resource and effort into reducing the number of security incidents which involve unauthorised disclosure of HMRC customer information. Nevertheless Contact Centres acknowledge the need to focus attention on expanding the bogus caller process to gain an even more fully informed picture of the extent of vulnerability to its caller verification processes from external attack through “blagging”.
20. As well as employing measures to intercept and prevent information being inappropriately disclosed, HMRC also operates a Department-wide security incident capture process. As part of this process all staff are required to record breaches of any of our security policies, including the inappropriate disclosure of customer information within two working days of the breach being discovered. A follow-up process is in place so that each incident is investigated and appropriate (including remedial) action is taken. There is very detailed guidance on reporting and dealing with security incidents on our Intranet backed up by tailored advice for different lines of business. Where an inappropriate disclosure has been made by a member of staff this will be subject to internal investigation – see answer to Q5 for further detail.

21. We do not currently identify bogus callers or impersonation as a separate category of security incident; and so it is not possible to identify potential inappropriate disclosures from data held within the system. However, in the light of the threat of impersonation and/or bogus callers together with our drive to continuously improve our protection of customer information, a new sub-category of security incident is being introduced within the next few months to cover this type of event/attempt. We believe that by having more detailed targeted information about threats we can help to reduce the risks of data being incorrectly disclosed.
22. To enhance its telephone security checks in 2006 HMRC launched an Internal Caller Verification Process, which is an interactive system that requires HMRC staff calling another HMRC Office to have access to HMRC's mainframe systems and an internal Caller Verification Code is generated to the recipient of the call. We believe this has proved a very successful deterrent in the armour against external attack from bogus enquirers purporting to be calling from another HMRC Office.
23. Copies of the relevant "bogus enquiries and caller verification" guidance that we publish to staff on our Intranet pages are included at **Annex C**.
- (Q5) Have any of your staff (i.e. HMRC or Inland Revenue staff, whether casual or permanent) in the last 10 years been caught and/or disciplined for disclosing confidential data to third parties? If so please provide particulars. This request is particularly directed at third parties who directly, or indirectly, have sought to corrupt your staff in order to obtain confidential data for any manifestation of the media.**
24. The results of our researches on this issue are set out below but it may assist if I set them in context by providing background as to the systems HMRC and its predecessor Departments used, and the approach we have taken to identifying the cases we currently report. Given the limitations outlined below, and notwithstanding our extensive efforts, it is not possible to guarantee that all relevant cases have been identified.
25. Following the formation of HMRC in April 2005 a central register of all potential disciplinary cases and disciplinary penalties of all HMRC employees was established. This central record is in spreadsheet format and includes summary headlines of the type of case, employee details and the outcome. Those headings and the case categories have continued to evolve to meet changing reporting requirements, the central record currently contains over 6,700 entries including those where staff have been investigated but cleared of any wrongdoing.
26. Prior to April 2005, the Inland Revenue and HM Customs and Excise both maintained separate central registers which have been retained. These records often contain less detail than the current HMRC records and are therefore harder to analyse for specific types of case.

27. The HMRC Record for cases post April 2005 currently contains specific misconduct category headings for "Disclosure of Official Information" but cases involving unauthorised disclosure may also have been categorised under alternative headings such as "Fraud" or "Corruption with external links".
28. Finally, our records retention policy for personnel files requires that disciplinary case files are routinely destroyed after 2 years, unless there is a risk of litigation justifying their retention. Whilst it has been possible to identify relevant cases by reference to the central record, it will not follow that the files for those cases will necessarily exist. Verification of which files still exist is ongoing and we will of course provide any further material to the Inquiry should it arise.
29. HMRC has selected categories of cases from the central disciplinary registers which appear most likely to contain disciplinary cases involving the disclosure of confidential data to third parties. We have also examined (i) our record of criminal investigation cases involving staff, (ii) our intelligence data and (iii) made enquiries with those HMRC staff who have been involved in investigating cases of suspected unauthorised disclosure to the media over the previous 6 years.
30. The enquiries and analysis described above have produced an initial list of 84 potentially relevant cases as follows:
 - 50 cases where staff have either been disciplined for the disclosure of confidential information to third parties, other than the media, or resigned during the investigation process;
 - 6 cases where staff have been disciplined for failing to follow caller verification procedures when dealing with external callers. These cases were identified during management assurance activity to check that such procedures were being properly adhered to. It is not known whether any of these cases involved an attempted or successful "blagging", or whether they may have been instances of genuine customers forgetting their security details. However we include these cases in case they are of interest to the Inquiry, and to illustrate the steps we take to prevent the disclosure of taxpayer information to bogus callers;
 - 11 cases of suspected disclosure of confidential information to third parties other than the media in which enquiries are ongoing or where we have not yet established the outcome of the case;
 - 3 cases where staff have been disciplined for disclosure of confidential information to the media; and
 - 14 cases where confidential information was published in the media and which was either reported to have been provided by a source within HMRC or which could have come from such a source, but where enquiries were ultimately inconclusive or are ongoing.

31. The outcomes in the 59 disciplinary cases were:
- 27 dismissals;
 - 7 resignations;
 - 24 written warnings; and
 - 1 verbal warning
32. In respect of the requirement at paragraph (c) of the Notice, namely the production of **“any document relevant to the uncovering of, investigation of, or disciplining of staff for unauthorised disclosure of confidential data to third parties”**; **Annex D** contains such full copy papers as have been able to be located relating to the 17 cases involving proven or suspected disclosures to the media. **Annex E** contains 3 lever arch files of documents (albeit not full copy documents) relating to the non-media cases.
33. For the 17 cases involving actual or suspected disclosure to the media provided as **Annex D** we also include as a prefix to that annex a sensitive index summarising the relevant information.
34. We have prioritised the provision of full copy documents relating to media disclosures in view of the focus in Q5 on blagging in respect of the media, together with the fact that the gathering of full copy papers on each of the non-media disciplinary cases is an enormously large task. Even straightforward disciplinary case files can contain several hundred pages, particularly when the contents of linked (to the same case) files are taken into account, for example intelligence files and court papers where a prosecution has been brought. In relation to those non-media disciplinary cases, the documents at **Annex E** comprise copies of our disciplinary and criminal investigation reports, which contain full details of the case and summarise the investigation and available evidence. We anticipate and hope that this will provide the Inquiry with the necessary information it seeks.



Dave Hartnett
Permanent Secretary for Tax

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